

STATE OF MICHIGAN
COURT OF APPEALS

RANDY BEUS, Deceased, by MONICA BEUS,
Surviving Spouse,

UNPUBLISHED
August 3, 2006

Plaintiff-Appellee,

v

No. 258995
WCAC
LC No. 03-000316

BROAD, VOGT & CONANT, INC., STAR
INSURANCE COMPANY, and
MEADOWBROOK CLAIMS SERVICE,

Defendants-Appellants.

Before: Neff, P.J., and Bandstra and Zahra, JJ.

NEFF, P.J. (*dissenting*).

I respectfully dissent. I would affirm the decision of the Worker's Compensation Appellate Commission (WCAC). I concur in the reasoning of the WCAC and conclude that plaintiff's¹ trip was for business purposes, his death arose out of and in the course of his employment, and he was entitled to benefits.

The magistrate's conclusion that the "major purpose" of relocating plaintiff's family to Mexico was social or recreational is illogical. The relocation of plaintiff's family was a necessary and negotiated aspect of plaintiff's employment with The Broad Group. His employment onsite in Mexico with The Broad Group required that plaintiff move his belongings and his family to Mexico, and the company incorporated this relocation into plaintiff's employment package in the course of its business. Moreover, plaintiff arranged the relocation in conjunction with a business trip to meet with a potential client of The Broad Group and conduct other business activities. The relocation of his family occurred on the return trip to Mexico. Classifying plaintiff's trip as social or recreational disregards the undeniable character, purpose, and nature of the travel to Mexico.

¹ For purposes of consistency with the majority opinion, this opinion refers to the decedent as "plaintiff."

The circumstances in *Eversman v Concrete Cutting & Breaking*, 463 Mich 86, 92; 614 NW2d 862 (2000), relied on by the majority, are inapposite. Plaintiff's activities are in no way analogous to a traveling employee who engaged in a six-hour span of visiting bars, drinking beer, and playing pool on his day off. *Id.* at 96. It goes without saying that such activities, for most employees, are not business related or undertaken in the course of employment. The majority's reliance on *Everman* to determine the "major purpose" of the particular activity engaged in at the time of injury in this case contorts the analysis and runs contrary to the conduct of business, which frequently involves contractual obligations such as the relocation of one's family when employment necessitates a move to another country.² As the WCAC logically reasoned, in this case, both the major purpose underlying the trip and the major purpose of the activity engaged in were business related.

/s/ Janet T. Neff

² The majority's conclusion that the major purpose of the relocation was "social," rather than business in nature, creates interesting tax implications, particularly for employers.